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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,570	02/15/2008	Daniel D'Amico	AG207/2004.AFP	1297
26875	7590	02/18/2010		
WOOD, HERRON & EVANS, LLP			EXAMINER	
2700 CAREW TOWER			JOYNER, KEVIN	
441 VINE STREET				
CINCINNATI, OH 45202			ART UNIT	PAPER NUMBER
			1797	
			MAIL DATE	DELIVERY MODE
			02/18/2010	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/562,570	D'AMICO ET AL.
	<b>Examiner</b> KEVIN C. JOYNER	<b>Art Unit</b> 1797

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 15 February 2008.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-4 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-4 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 09 August 2007 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/US/06)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More specifically, it is unclear as to whether claim 4 depends from claim 1, or is a separate independent claim. In the event that claim 4 is intended to be an independent claim, the Applicant is reminded to ensure proper antecedent basis for the limitations in the claim. Appropriate action is required.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 3 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Laudamiel-Pellet et al. (U.S. Publication No. 2002/0068009).

Laudamiel-Pellet discloses a package (20) for an air freshener unit that is capable of being intended for use in the cabin of a motor vehicle and containing a scent emitting material, said package comprising respective front and rear panels (36 & 38)

shaped to provide there between a first and second spaced apart pair of compartments (44; said second compartment is located in alignment with aperture 88) that is capable of retaining therein respectively an air freshener unit having material that emits a preselected scent (paragraphs 80-85) and a sample of the material that produces that same scent, said second compartment having an outlet opening (88) communicating therewith and discharging to atmosphere (paragraph 90) and a finger pressure responsive selected area on said package enabling discharging to atmosphere a puff of the scented air from said second compartment upon applying finger pressure to that selected area (paragraphs 117-120).

Concerning claim 3, the reference also discloses that the second compartment is located in a tab (32) that projects outwardly from the peripheral edge of the package as shown in Figure 2. With regard to claim 4, Laudamiel-Pellet also discloses a package comprising front and rear panels (36 & 38) to provide there between a first and second spaced apart pair of compartments (44; said second compartment is located in alignment with aperture 88), an air freshener unit (Figure 8) located in said first compartment and having a material that emits a preselected scent and a sample of said scent producing material that produces that same scent located in said second compartment (paragraphs 81-84), said second compartment having an outlet opening (88) communicating therewith and discharging to atmosphere (paragraph 90) and a finger pressure responsive selected area on said package enabling discharging to atmosphere a puff of the scented air from said second compartment upon applying finger pressure to that selected area (paragraphs 117-120).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Laudamiel-Pellet et al. (U.S. Publication No. 2002/0068009) in view of Helf et al. (U.S. Patent No. 6,969,008).

Laudamiel-Pellet is relied upon as set forth above. Laudamiel-Pellet does not appear to disclose that said panels each have a truncated conical portion projecting therefrom, wherein said truncated conical projections are disposed in inter-nested relation defining there between said second compartment. Helf discloses a package (20) for an air freshener unit (82) containing a scent emitting material wherein said package comprises front and rear panels (32 & 38) configured to provide there between a first compartment (Figures 1 and 5). The reference continues to disclose that said panels each have a truncated conical portion projecting therefrom, wherein said truncated conical projections are disposed in an inter-nested relation defining there between said second compartment (Figure 1) in order to securely retain said air freshener unit in said package (column 3, lines 40-65). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the panels of Laudamiel-Pellet to include said panels with a truncated conical portion projecting

therefrom, wherein said truncated conical projections are disposed in interested relation defining there between said second compartment in order to securely retain said air freshener unit in said package as exemplified by Helf.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEVIN C. JOYNER whose telephone number is (571)272-2709. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on (571) 272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KCJ

/Kevin C Joyner/  
Examiner, Art Unit 1797